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HOUSE BILL 116

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; INCLUDING HELIUM IN THE DEFINITION OF
PRODUCTS SUBJECT TO VARIOUS SEVERANCE TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-29-2 NMSA 1978 (being Laws 1959,
Chapter 52, Section 2, as amended by Laws 1999, Chapter 7,
Section 1 and also by Laws 1999, Chapter 256, Section 1) is
amended to read:

"7-29-2. DEFINITIONS. --As used in the Oil and Gas
Severance Tax Act:

A. "commission", "department", "division" or "oil
and gas accounting division" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

underscoring material = new
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1 B. "production unit" means a unit of property
2 designated by the department from which products of common
3 ownership are severed;

4 C. "severance" means the taking from the soil of
5 any product in any manner whatsoever;

6 D. "value" means the actual price received for
7 products at the production unit, except as otherwise provided
8 in the Oil and Gas Severance Tax Act;

9 E. "product" or "products" means oil, natural gas
10 or liquid hydrocarbon, individually or any combination thereof,
11 [~~or~~] carbon dioxide, helium or a non-hydrocarbon gas;

12 F. "operator" means any person:

13 (1) engaged in the severance of products from
14 a production unit; or

15 (2) owning an interest in any product at the
16 time of severance who receives a portion or all of such product
17 for his interest;

18 G. "primary recovery" means the displacement of oil
19 and of other liquid hydrocarbons removed from natural gas at or
20 near the wellhead from an oil well or pool as classified by the
21 oil conservation division of the energy, minerals and natural
22 resources department pursuant to Paragraph (11) of Subsection B
23 of Section 70-2-12 NMSA 1978 into the wellbore by means of the
24 natural pressure of the oil well or pool, including but not
25 limited to artificial lift;

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1 H. "purchaser" means a person who is the first
2 purchaser of a product after severance from a production unit,
3 except as otherwise provided in the Oil and Gas Severance Tax
4 Act;

5 I. "person" means any individual, estate, trust,
6 receiver, business trust, corporation, firm, co-partnership,
7 cooperative, joint venture, association or other group or
8 combination acting as a unit, and the plural as well as the
9 singular number;

10 J. "interest owner" means a person owning an entire
11 or fractional interest of whatsoever kind or nature in the
12 products at the time of severance from a production unit, or
13 who has a right to a monetary payment that is determined by the
14 value of such products;

15 K. "new production natural gas well" means a
16 producing crude oil or natural gas well proration unit that
17 begins its initial natural gas production on or after May 1,
18 1987 as determined by the oil conservation division of the
19 energy, minerals and natural resources department;

20 L. "qualified enhanced recovery project", prior to
21 January 1, 1994, means the use or the expanded use of carbon
22 dioxide, when approved by the oil conservation division of the
23 energy, minerals and natural resources department pursuant to
24 the Enhanced Oil Recovery Act, for the displacement of oil and
25 of other liquid hydrocarbons removed from natural gas at or

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1 near the wellhead from an oil well or pool classified by the
2 oil conservation division pursuant to Paragraph (11) of
3 Subsection B of Section 70-2-12 NMSA 1978;

4 M "qualified enhanced recovery project", on and
5 after January 1, 1994, means the use or the expanded use of any
6 process approved by the oil conservation division of the
7 energy, minerals and natural resources department pursuant to
8 the Enhanced Oil Recovery Act for the displacement of oil and
9 of other liquid hydrocarbons removed from natural gas at or
10 near the wellhead from an oil well or pool classified by the
11 oil conservation division pursuant to Paragraph (11) of
12 Subsection B of Section 70-2-12 NMSA 1978, other than a primary
13 recovery process; the term includes but is not limited to the
14 use of a pressure maintenance process, a water flooding process
15 and immiscible, miscible, chemical, thermal or biological
16 process or any other related process;

17 N. "production restoration project" means the use
18 of any process for returning to production a natural gas or oil
19 well that had thirty days or less of production in any period
20 of twenty-four consecutive months beginning on or after January
21 1, 1993, as approved and certified by the oil conservation
22 division of the energy, minerals and natural resources
23 department pursuant to the Natural Gas and Crude Oil Production
24 Incentive Act;

25 O. "well workover project" means any procedure

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1 undertaken by the operator of a natural gas or crude oil well
2 that is intended to increase the production from the well and
3 that has been approved and certified by the oil conservation
4 division of the energy, minerals and natural resources
5 department pursuant to the Natural Gas and Crude Oil Production
6 Incentive Act;

7 P. "stripper well property" means a crude oil or
8 natural gas producing property that is assigned a single
9 production unit number by the department and is certified by
10 the oil conservation division of the energy, minerals and
11 natural resources department pursuant to the Natural Gas and
12 Crude Oil Production Incentive Act to have produced in the
13 preceding calendar year:

14 (1) if a crude oil producing property, an
15 average daily production of less than ten barrels of oil per
16 eligible well per day;

17 (2) if a natural gas producing property, an
18 average daily production of less than sixty thousand cubic feet
19 of natural gas per eligible well per day; or

20 (3) if a property with wells that produce both
21 crude oil and natural gas, an average daily production of less
22 than ten barrels of oil per eligible well per day, as
23 determined by converting the volume of natural gas produced by
24 the well to barrels of oil by using a ratio of six thousand
25 cubic feet to one barrel of oil;

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1 Q. "average annual taxable value" means as
2 applicable:

3 (1) the average of the taxable value per one
4 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
5 1978, of all natural gas produced in New Mexico for the
6 specified calendar year as determined by the department; or

7 (2) the average of the taxable value per
8 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
9 oil produced in New Mexico for the specified calendar year as
10 determined by the department; and

11 R. "tax" means the oil and gas severance tax."

12 Section 2. Section 7-30-2 NMSA 1978 (being Laws 1959,
13 Chapter 53, Section 2, as amended) is amended to read:

14 "7-30-2. DEFINITIONS.--As used in the Oil and Gas
15 Conservation Tax Act:

16 A. "department" means the taxation and revenue
17 department, the secretary of taxation and revenue or any
18 employee of the department exercising authority lawfully
19 delegated to that employee by the secretary;

20 B. "production unit" means a unit of property
21 designated by the department from which products of common
22 ownership are severed;

23 C. "severance" means the taking from the soil of
24 any product in any manner whatsoever;

25 D. "value" means the actual price received for

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1 products at the production unit, except as otherwise provided
2 in the Oil and Gas Conservation Tax Act;

3 E. "product" or "products" means oil, natural gas
4 or liquid hydrocarbon, individually or any combination thereof,
5 uranium, coal, geothermal energy, ~~[or]~~ carbon dioxide, helium
6 or a non-hydrocarbon gas;

7 F. "operator" means any person:

8 (1) engaged in the severance of products from
9 a production unit; or

10 (2) owning an interest in any product at the
11 time of severance who receives a portion or all of such product
12 for his interest;

13 G. "purchaser" means a person who is the first
14 purchaser of a product after severance from a production unit,
15 except as otherwise provided in the Oil and Gas Conservation
16 Tax Act;

17 H. "person" means any individual, estate, trust,
18 receiver, business trust, corporation, firm, copartnership,
19 cooperative, joint venture, association or other group or
20 combination acting as a unit, and the plural as well as the
21 singular number; ~~[and]~~

22 I. "interest owner" means a person owning an entire
23 or fractional interest of whatsoever kind or nature in the
24 products at the time of severance from a production unit or who
25 has a right to a monetary payment ~~[which]~~ that is determined by

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1 the value of such products; and

2 J. "tax" means the oil and gas conservation tax."

3 Section 3. Section 7-31-2 NMSA 1978 (being Laws 1959,
4 Chapter 54, Section 2, as amended) is amended to read:

5 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
6 Emergency School Tax Act:

7 A. "commission", "department" or "division" means
8 the taxation and revenue department, the secretary of taxation
9 and revenue or any employee of the department exercising
10 authority lawfully delegated to that employee by the secretary;

11 B. "production unit" means a unit of property
12 designated by the department from which products of common
13 ownership are severed;

14 C. "severance" means the taking from the soil of
15 any product in any manner whatsoever;

16 D. "value" means the actual price received from
17 products at the production unit, except as otherwise provided
18 in the Oil and Gas Emergency School Tax Act;

19 E. "product" or "products" means oil, natural gas
20 or liquid hydrocarbon, individually or any combination thereof,
21 [~~or~~] carbon dioxide, helium or a non-hydrocarbon gas;

22 F. "operator" means any person:

23 (1) engaged in the severance of products from
24 a production unit; or

25 (2) owning an interest in any product at the

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1 time of severance who receives a portion or all of such product
2 for his interest;

3 G. "purchaser" means a person who is the first
4 purchaser of a product after severance from a production unit,
5 except as otherwise provided in the Oil and Gas Emergency
6 School Tax Act;

7 H. "person" means any individual, estate, trust,
8 receiver, business trust, corporation, firm, copartnership,
9 cooperative, joint venture, association, limited liability
10 company or other group or combination acting as a unit, and the
11 plural as well as the singular number;

12 I. "interest owner" means a person owning an entire
13 or fractional interest of whatsoever kind or nature in the
14 products at the time of severance from a production unit or who
15 has a right to a monetary payment [~~which~~] that is determined by
16 the value of such products;

17 J. "stripper well property" means a crude oil or
18 natural gas producing property that is assigned a single
19 production unit number by the department and is certified by
20 the oil conservation division of the energy, minerals and
21 natural resources department pursuant to the Natural Gas and
22 Crude Oil Production Incentive Act to have produced in the
23 preceding calendar year:

24 (1) if a crude oil producing property, an
25 average daily production of less than ten barrels of oil per

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1 eligible well per day;

2 (2) if a natural gas producing property, an
3 average daily production of less than sixty thousand cubic feet
4 of natural gas per eligible well per day; or

5 (3) if a property with wells that produce both
6 crude oil and natural gas, an average daily production of less
7 than ten barrels of oil per eligible well per day, as
8 determined by converting the volume of natural gas produced by
9 the well to barrels of oil by using a ratio of six thousand
10 cubic feet to one barrel of oil; [~~and~~]

11 K. "average annual taxable value" means as
12 applicable:

13 (1) the average of the taxable value per one
14 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
15 1978, of all natural gas produced in New Mexico for the
16 specified calendar year as determined by the department; or

17 (2) the average of the taxable value per
18 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
19 oil produced in New Mexico for the specified calendar year as
20 determined by the department; and

21 L. "tax" means the oil and gas emergency school
22 tax. "

23 Section 4. Section 7-32-2 NMSA 1978 (being Laws 1959,
24 Chapter 55, Section 2, as amended) is amended to read:

25 "7-32-2. DEFINITIONS. --As used in the Oil and Gas Ad

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1 Valorem Production Tax Act:

2 A. "commission", "department" or "division" means
3 the taxation and revenue department, the secretary of taxation
4 and revenue or any employee of the department exercising
5 authority lawfully delegated to that employee by the secretary;

6 B. "production unit" means a unit of property
7 designated by the department from which products of common
8 ownership are severed;

9 C. "severance" means the taking from the soil of
10 any product in any manner whatsoever;

11 D. "value" means the actual price received for
12 products at the production unit, except as otherwise provided
13 in the Oil and Gas Ad Valorem Production Tax Act;

14 E. "product" or "products" means oil, natural gas
15 or liquid hydrocarbon, individually or any combination thereof,
16 [~~or~~] carbon dioxide, helium or a non-hydrocarbon gas;

17 F. "operator" means any person:

18 (1) engaged in the severance of products from
19 a production unit; or

20 (2) owning an interest in any product at the
21 time of severance who receives a portion or all of such product
22 for his interest;

23 G. "purchaser" means a person who is the first
24 purchaser of a product after severance from a production unit,
25 except as otherwise provided in the Oil and Gas Ad Valorem

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1 Production Tax Act;

2 H. "person" means any individual, estate, trust,
3 receiver, business trust, corporation, firm, copartnership,
4 cooperative, joint venture, association or other group or
5 combination acting as a unit, and the plural as well as the
6 singular number;

7 I. "interest owner" means a person owning an entire
8 or fractional interest of whatsoever kind or nature in the
9 products at the time of severance from a production unit or who
10 has a right to a monetary payment [~~which~~] that is determined by
11 the value of such products; [~~and~~]

12 J. "assessed value" means the value against which
13 tax rates are applied; and

14 K. "tax" means the oil and gas ad valorem
15 production tax."

16 Section 5. Section 7-34-2 NMSA 1978 (being Laws 1969,
17 Chapter 119, Section 2, as amended) is amended to read:

18 "7-34-2. DEFINITIONS.--As used in the Oil and Gas
19 Production Equipment Ad Valorem Tax Act:

20 A. "commission", "department" or "division" means
21 the taxation and revenue department, the secretary of taxation
22 and revenue or any employee of the department exercising
23 authority lawfully delegated to that employee by the secretary;

24 B. "person" means any individual, estate, trust,
25 receiver, business trust, corporation, firm, copartnership,

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1 cooperative, joint venture, association or other group or
2 combination acting as a unit;

3 C. "operator" means any person engaged in the
4 severance of products from a production unit;

5 D. "product" means oil, natural gas or liquid
6 hydrocarbon, individually or any combination thereof, [~~or~~]
7 carbon dioxide, helium or a non-hydrocarbon gas;

8 E. "severance" means taking any product from the
9 soil in any manner;

10 F. "production unit" means a unit of property
11 designated by the department from which products of common
12 ownership are severed;

13 G. "equipment" means wells and nonmobile equipment
14 used at a production unit in connection with severance,
15 treatment or storage of production unit products;

16 H. "value" means the actual price received for
17 products at the production unit as established under the Oil
18 and Gas Ad Valorem Production Tax Act; [~~and~~]

19 I. "assessed value" means the value against which
20 tax rates are applied; and

21 J. "tax" means the oil and gas production equipment
22 ad valorem tax."

23 Section 6. EFFECTIVE DATE. --The effective date of the
24 provisions of this act is July 1, 2004.